

ILLINOIS POLLUTION CONTROL BOARD
May 22, 1986

VILLAGE OF STILLMAN VALLEY,)
)
 Petitioner,)
)
 v.) PCB 86-30
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board upon the filing on February 28, 1986 by the Village of Stillman Valley (Village) of a petition for variance from the wastewater treatment plant (WWTP) operator certification regulations, specifically 35 Ill. Adm. Code 380.501. The request for variance should more properly be from the Board regulation, Section 312.101, rather than the Agency regulation, Section 380.501 and the Board will so construe the Petition. The Agency filed its recommendation to deny the variance on April 14, 1986. Hearing was waived and none was held. No public comments were received.

The Village holds NPDES permit # IL0031275. It owns and operates a 0.2 million gallons per day (MGD) design average flow (DAF) WWTP consisting of bar screens, comminutor, a Clow Aer-O-Flow contact stabilization activated sludge unit, flow measurement, a polishing pond and disinfection. The sludge is aerobically digested and either dried on sludge drying beds or wet hauled for land application. Discharge is to Stillman Creek and thence to the Rock River.

Section 312.101 provides as follows:

[n]o person shall cause or allow the use or operation of any treatment works for which a permit is required by Part 309 unless the operation of such treatment works is under the direct and active field supervision of a person who has been certified by the Agency as being competent to operate the particular type or size of treatment works being used or operated.

The applicable Agency regulation is Section 380.501. The WWTP of the Village is classified as a Group 2 facility requiring a certified Class 2 operator or an operator certified at a higher level. 35 Ill. Adm. Code 380.501. The Village currently employs

a contract certified Class 1 operator, Mr. Janes, and a full time Class 4 WWTP operator, Mr. Glendenning who has been employed in that position since February of 1984.

The Village requests that Mr. Glendenning be allowed to supervise its Class 2 WWTP for the period of time necessary for him to complete the six years of wastewater operator experience required in Agency regulation Section 380.703 (Class 2), prior to qualifying for the Class 2 examination (Petition at 3). The Village asserts that he would be eligible for the Class 2 examination in August, 1988 and therefore requests a variance for a 2 1/2 year period (Petition at 6).

The Agency counters that Mr. Glendenning has only 30 months experience toward a Class 2 certificate and needs 42 additional months in order to take the written examination. He would not be able to take the Class 2 examination until October, 1989. If Mr. Glendenning successfully completes three 3-credit courses related to sewage treatment, then he would only need 33 additional months of experience. He then could take the examination in January, 1989. In any event, the Village's estimate of August 1988 is too optimistic (Agency Rec. at 2,3).

Regarding environmental impact, the Village has furnished discharge monitoring report (DMR) data showing that the WWTP has complied with its permit conditions for 1985 (Petition at 4). The Village also mentions various educational programs Mr. Glendenning has been involved in. The inference is that with his present experience and the 1985 operation record of the WWTP, the WWTP will be operated properly and with minimal adverse impact.

The Agency, however, states that the plant has a history of poor operational practices since beginning operation in May 1976 (Agency Rec. at 2). While the WWTP performance improved during the time the Village participated in the Agency's operator assistance program, Village participation ended in December 1985. Id.

The Village asserts that it has many ongoing water and sewer plant system improvements such as a new water tower, upgrading sewer plant process control, new laboratory equipment, and lagoon pumping and lining which have strained the Village budget. (Pet. at 5). More improvements are planned. Id. The Village states that "the average cost of the village's 400 services is \$28.00 per month. Raising these rates would be impossible." Id. The Village states that to ease any budget strain as well as to increase the wages and benefits to Mr. Glendenning, it could eliminate the contract certified operator position. Id.

The Agency asserts that one of the purposes of the Village in terminating the employment of the contract operator "is to increase the wages and benefits of Mr. Glendenning. Thus, there

would be no savings to the Village or the users of the system." (Agency Rec. at 4). The Agency attributes the lagoon pumping and laboratory equipment costs to the previous inattention of the Village to its WWTP. Id. The Agency notes that the \$28.00 per month user fee is for both water and sewer and that there is no indication that the users cannot afford the fee (Agency Rec at 4,5).

The Village does not allege that immediate compliance with Section 312.101 would cause an arbitrary or unreasonable hardship. At best it could be said that the Village is asserting some degree of economic hardship. This assertion by itself is insufficient to justify the grant of variance.

The Board has granted variances from Section 312.101 under certain circumstances. These include situations where a long-time, competent plant operator was nearing retirement, Village of Franklin Grove v. IEPA, 39 PCB 167 (PCB 80-106, July 24, 1980); where plant upgrades or rule changes require changed certifications, Village of Ashton v. IEPA 39 PCB 591 (PCB 80-135, October 17, 1980); and where current employees need a rather short time to qualify for the required certification. Variances were granted for nine months in City of Herrin v. IEPA, 39 PCB 557 (PCB 80-145, October 2, 1980) and in City of Marion v. IEPA, 45 PCB 153, (PCB 81-169, January 21, 1982); and seven months in Village of Crossville v. IEPA, 45 PCB 57 (PCB 81-156, January 7, 1982).

In some of the above cases, the plant had a history of good operation, in others, problems were beyond the control of the operator to whom the variance would apply. In Sanitary District of Beardstown v. IEPA, 56 PCB 235 (PCB 83-225, February 22, 1984), aff'd at 57 PCB 199 (March 21, 1984), a six month variance was granted to enable an experienced Class 2 operator to prepare for and to take the Class 1 examination. The Beardstown WWTP had been characterized by the Agency as well run. 56 PCB 238. In another case, Village of German Valley v. IEPA, 47 PCB 537 (PCB 82-75, August 8, 1982) a Class 3 operator needed 32 months additional experience to qualify for the Class 2 examination. The Board granted a one year variance during which time his performance was further evaluated. Subsequently the Board granted another variance based upon satisfactory performance. 58 PCB 469 (PCB 84-27, June 29, 1984). While German Valley's WWTP had some operational problems (47 PCB 538), most were corrected during the prior variance period. The Agency noted the satisfactory performance of the WWTP and its operator during the period of the prior variance. 58 PCB 470.

In the instant case, there is a history of poor operation of the WWTP. The Agency has recommended denial. In addition, an unusually long variance period of between 33 and 42 months would be required depending upon the operator's completion of

classes. Mr. Glendenning is not a long-term employee caught by a rule change or upgrading. The Board does not believe that terminating the Class I supervisor at this time would serve the interest of environmental protection. The Village is, of course, free to file another variance request when Mr. Glendenning has more experience and is closer to completing the requirements for Class 2 certification.

The Board hereby denies variance from 35 Ill. Adm. Code 312.101.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The request by the Village of Stillman Valley for variance relief, construed by the Board as being from 35 Ill. Adm. Code 312.101, is hereby denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 22nd day of May, 1986, by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board